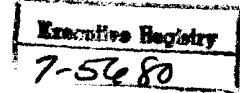


OGC Has Reviewed

W. Houston

NOTES FOR DISCUSSION WITH THE COMMITTEE ON THE
LOYALTY AND SECURITY PROGRAM



1. The Investigatory Function

A. Role of the Civil Service Commission

- (1) Non-subversive investigations;
- (2) lack of discretion or failure to exercise it.

B. Role of the Bureau

- (1) All subversive investigations;
- (2) initial investigations adequate;
- (3) special and additional investigations thorough and complete although time consuming.

C. Agency Investigations

- (1) Rarely used except in cases with overseas aspects;
- (2) difficulty of objectivity and completeness;
- (3) not to be substituted for FBI work except under most exceptional circumstances.

D. Evaluation of Source

- (1) Bureau principle of no evaluation generally sound due to enormity of problem;
- (2) confidential informants characterized as "unknown reliability," "usually reliable," and "known reliability."

2. The Preparation Function

A. Role of the Office of Security

- (1) Documentation of primary importance - it sets the tone for all processing of cases;
- (2) presentation of all facts pro and con in usable manner;

- (3) evaluation only as to security aspects, i.e., whether or not security problem exists, if so whether board proceedings required;
- (4) recommendation on suspension.

B. Role of General Counsel

- (1) Review entire case, concur with or comment on evidence compiled by and conclusions of Office of Security;
- (2) advise DCI on any legal considerations;
- (3) draft all papers required in processing;
- (4) advise subject of case upon request as to rights, procedures, and representation by counsel;

3. The Evaluation Process

A. Role of the Board (Board required only when clearance not granted on record. Essential it be composed of senior staff members.)

- (1) Fact finding in first instance;
- (2) authorization of further investigation if necessary;
- (3) evaluation of all information with regard to loyalty, security and suitability in each case;
- (4) interrogatories, informal interviews with subject, charges, formal hearings;
- (5) recommendation to the Director for appropriate disposition in each case - for clearance at any point - for termination only after charges and opportunity to be heard.

B. Role of the Office of Security

- (1) Presenter of facts to the board not prosecutor;
- (2) duty to satisfy board's requirements not to make its own case.

C. Role of General Counsel

- (1) Advise the board on procedure;
- (2) applicability of rules of evidence, and comment on weighing evidence;
- (3) all substantive legal problems arising in any case.

D. Role of the Subject

- (1) Conflicting statements and unresolved points clarified by interrogatories;
- (2) informal appearance of subject for questioning in the event of doubt by board as to whether it has a case;
- (3) preference of charges and opportunity for subject to appear where adverse recommendation apparent or probable.

E. Problems Encountered in Evaluation

- (1) Evaluation of sources both known and confidential;
- (2) inability to subpoena witnesses;
- (3) inability to cross-examine majority of sources;
- (4) inability to identify unwilling sources to subject;
- (5) inability to confront subject with antagonistic witnesses;
- (6) inability to inform subject of information from confidential sources.

4. Disposition

- (1) Board recommends retention as clearly consistent with national security;
- (2) Board recommends separation based on loyalty, security, or suitability;
- (3) action by DCI under EO 10450 or under section 102(c) of the National Security Act of 1947;

- (4) problem of resignation versus termination;
- (5) technical action by Office of Personnel;
- (6) reports to Civil Service Commission and the Federal Bureau of Investigation.

5. Special Considerations

A. Role of Polygraph

- (1) In investigation as an adjunct to develop leads as a basis for further interrogation;
- (2) in evaluation as a final check for the board's consideration;
- (3) polygraph report not considered by board until after conclusions reached based on documentary evidence and testimony of witnesses.

B. Security Problems

- (1) Difficulties with cleared counsel;
- (2) restrictions on investigations.

C. EO 10450 Proceedings Versus CIA Internal Proceedings

- (1) Irresponsibility of outside boards;
- (2) court review.

D. Finality of Action

- (1) Each agency makes own decision;
- (2) no effective appeal system;
- (3) no central reviewing mechanism for substantive matters. Civil Service Commission reviews manner in which EO 10450 program is performed.

6. Representative Cases

- (1) The [REDACTED] case; 25X1A9a
- (2) the [REDACTED] case;
- (3) the [REDACTED] case;
- (4) the [REDACTED] case. 25X1A9a

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